NEWS UPDATE - 11 AUGUST 2021

Contents

Basis period rules among tax changes coming up

Although it looks like the next Budget will be pushed back to spring 2022, several tax changes are already on the cards, some more certain than others. The government's fast progress with reform of the basis period rules for unincorporated businesses has taken some by surprise.

Basis period rules

The basis of taxation for sole traders and partnerships looks like it will change to a tax year basis from 2023/24 onwards. The government's plan is to simplify the rules by the time MTD for income tax becomes mandatory.

This will not impact on you if you already draw up accounts to 5 April (or 31 March), but for others 2022/23 will be the transition year.

EXAMPLE

A partnership prepares accounts to 30 June. The profits assessed for 2022/23 will be those from 1 July 2021 to 5 April 2023 (or 31 March 2023), less any unused overlap profits. For 2023/24, profits assessed will be from 6 April 2023 to 5 April 2024 (or 1 April 2023 to 31 March 2024). Profits for the years ended 30 June 2023 and 2024 will have to be apportioned.

Any unused overlap profits can be offset in 2022/23, although some will find themselves taxed on up to 23 months of profits with little overlap profits to offset. In this case, an election will be possible so that the additional profits are spread over five tax years.

The need to apportion profits in future will mean having to estimate figures (with a subsequent amendment) where the second set of accounts is not prepared in time for the 31 January self- assessment deadline.

The simplest solution will be to change to a 5 April (or 31 March) accounting date. Making that change in 2021/22 could be a good option if current profits are low due to Covid-19.

Another change already on the cards is the increase to the normal retirement age for registered pensions from 55 to 57 in April 2028, which will be legislated in the Finance Act 2021/22. Less certain is a proposed 1% increase in NICs for the employed and self-employed to fund social care.

The Government's policy paper on basis period reform can be found from the link below:

https://www.gov.uk/government/consultations/basis-period-reform

Probate fees reform, round three

The Government's third attempt at revamping the cost of obtaining grant of probate in England and Wales is much more modest in scope than the previous two. The introduction of the new fee structure is planned for early 2022.

Proposal

There is a two-tier fee structure under the current system. The cost is £215 for an application from an individual, and £155 if the application is from a solicitor. Fees were last amended seven years ago, and at that time the cost differential reflected some of the additional administrative work required by the probate service to process applications made by individuals.

- The cost differential between professional and individual applications has substantially reduced, so the latest proposal is to have a single fee of £273; considerably less than the £20,000 maximum suggested back in 2016, or £6,000 in 2018.
- No fee is payable for very small estates of £5,000 or less.
- The same fees apply for obtaining letters of administration where the deceased was intestate.

Probate

Many estates do not need to go through probate. In some cases the value of the deceased's assets is low. The cut-off point can be anything between £10,000 and £50,000. Each bank and financial organisation has its own rules on how much money it will release before seeing a grant of probate. If all assets are jointly owned, they automatically pass to the surviving owners.

Even when probate is required, you can save the high fees charged by probate specialists if the estate is uncomplicated; approximately 40% of applications for probate are made by individuals in such circumstances. The Death Notification Service lets you notify a number of financial institutions of a person's death at the same time, and My Lost Account will help trace lost bank and building society accounts, and also NS&I products. It is worth obtaining multiple copies of a death certificate from the beginning as the cost of requesting these later can go up.

Because of Covid-19, probate applications are taking up to eight weeks to process.

If you are involved in a probate application, the government's guide is a good starting point, see link below:

https://www.gov.uk/applying-for-probate/apply-for-probate

HICBC discovery assessments deemed invalid

A discovery assessment can be made by HMRC where income, which should have been assessed, has not been assessed for tax purposes. A recent decision in an Upper Tribunal case, however, found that neither child benefit, nor the related charge, is defined as income, thereby restricting HMRC's use of discovery assessments to collect underpaid tax.

The high income child benefit charge (HICBC) applies to anyone who receives child benefit when their income, or their partner's income, exceeds £50,000. Many have been caught out thinking the charge doesn't apply to them or because they are unaware of their partner's finances.

Individuals who pay tax under PAYE may never have needed to fill in a tax return. However, they are required to do so just to report the HICBC.

The decision

Jason Wilkes owed around £4,200 in unpaid taxes as a result of being subject to the HICBC for the tax years 2014/15 to 2016/17. Crucial to the decision was that Wilkes had not filed returns for these years or been issued with a notice to file.

HMRC raised discovery assessments to collect the tax due. However, since no income as such was 'discovered', the assessments raised were invalid.

Refunds all round?

The answer, sadly, is no. Discovery assessments are valid if tax returns have been submitted but the HICBC omitted; there is then 'income'. This will be the case for many taxpayers.

It seems unfair that those complying with the law are at a disadvantage to those who have not. However, this is down to HMRC relying on discovery assessments rather than issuing a notice to file tax returns.

If you have been required to pay the HICBC for prior years then check to see if you fit the refund criteria: tax returns not filed, with discovery assessments used to collect the tax due.

Details of the high income child benefit charge can be found from the link below:

https://www.gov.uk/child-benefit-tax-charge

Scammers step-up sophisticated frauds

One side effect of the pandemic has been a surge in scams, with around £535 million reported as lost to investment fraud in the year to April 2021. One investment scam involving a retired detective shows just how sophisticated they can be.

Cloning fraud

A retired detective was pursuing a recommendation to invest in Vanguard, but when she attempted to find out more about the opportunity a Google search led to a cloned website. Further checks showed Vanguard's logo, address and company number all matched, and the paperwork provided was convincing. The investor even had to comply with money laundering requirements.

Unlike many scams, the funds did not immediately vanish; the investment was available online for a few days. Encouraged by this, along with assurances regarding financial protection, the investor transferred a further substantial sum. It was only at this point that the scam became apparent, because this amount failed to appear on the online account. A call to Vanguard's customer service confirmed the worst.

Contingent reimbursement model (CRM)

Most major banks are signed up to the CRM. They promise to refund scammed customers provided they were not unduly negligent. The idea is that the financial sector should be familiar with scams and how they operate, whereas the public generally is not.

The detective's bank initially refused to refund the full investment, but ultimately relented. There are some scams so convincing that even an experienced customer cannot spot them.

Prevention

No website, text, phone call or product should be taken at face value, however credible. The FCA maintains a warning list, and this should always be consulted. It is not a quick check because a search can give several results, but what is very useful is that the correct contact details are provided for the genuine firm.

The payee's bank details should be carefully checked since they obviously cannot match exactly those of the genuine firm. And of course, banks and other genuine financial institutions will not ask for your financial details over unsolicited phone calls, text messages or emails.

The FCA's warning list also provides useful advice on how to avoid financial scams in general.

No room for giveaways in OBR risk report

The Office for Budget Responsibility has given Rishi Sunak its new worry list. It gives the Chancellor little wriggle-room for potential Budget generosity.

Every other year the Office for Budget Responsibility (OBR) must issue a Fiscal Risks Report (FRR). Unlike the six-monthly economic outlooks the OBR produces for Budgets and (theoretically) Spring Statements, the FRR takes a longer view of the UK's financial position and the risks it faces. Past reports have been, in the OBR's words, "encyclopaedic", but in 2021, the FRR focused on just three areas:

- **Coronavirus (Covid-19) pandemic** - The OBR says that despite all that has been spent to date, there is an as yet unfunded need for another £10 billion a year to cover:
    - NHS programmes such as test and trace, revaccinations and the backlog of 3.5 million elective treatments;
    - catch-up schooling for pupils; and
    - 'the holes in the fareboxes' of the railways and Transport for London created by the collapse in passenger numbers.
- **Climate change** - Although the government has committed to the climate change agenda, the OBR highlights one elephant in the room that would frighten any politician: the loss of revenue from fuel and excise duties in an all-electric world. The OBR says these are worth about 1.5% of Gross Domestic Product (GDP) – £33 billion. In the short term some of the lost income may be replaced by carbon taxes, but in the long term the hole will have to be filled.
- **Government debt** - Government debt is currently just about equal to one year's output of the UK economy, against 40% in 1980. However, at present the net interest the government pays on that debt is less than a quarter of the 1980 bill (as a proportion of GDP). Ultra-low interest rates are the reason, but the corollary is that even only a small rise in rates would increase that cost significantly.

As we went to press the Chancellor asked the OBR to work on its next six-monthly report for presentation on 27 October. That might be Budget Day, although many commentators believe Mr Sunak will wait until spring, ditching the Autumn Budget once again. Whether or not that happens, the OBR's message is that the Chancellor cannot afford any giveaways. You have been warned.

Should you wish to discuss this News Update in further detail please contact BGM at: communications@bgm.co.uk